

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1316.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF TOMATO CATSUP.

On February 9, 1911, the United States Attorney for the District of Kansas, acting upon a report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel which was subsequently amended on April 1, 1911, praying condemnation and forfeiture of 745 cases of tomato catsup in the possession of McCord-Kistler Mercantile Co. The cases were labeled: "2 doz. #12 (or #14) Elk Pride Tomato Catsup—1/10 of 1% Benzoate of Soda—Made by the Harbauer-Marleau Co., Toledo, Ohio." Each of the bottles was labeled on the principal label: "Elk Pride Brand Tomato Catsup—Made from tomatoes, granulated sugar, onions, spices, and vinegar—Made by the Harbauer-Marleau Co., Toledo, Ohio—Preserved with 1/10 of 1% Benzoate of Soda." On the neck label: "Made from pure tomatoes, pure spices, granulated sugar, onions, preserved with benzoate of soda—artificially colored."

Examination of a sample of said product by the Bureau of Chemistry of the United States Department of Agriculture showed it to contain yeasts and spores 75 per one-sixtieth cubic millimeter, bacteria 170,000,000 per cubic centimeter, and mold filaments present in 85 per cent of the fields. The libel alleged that the tomato catsup, after shipment by the Harbauer-Marleau Co., Toledo, Ohio, from the State of Ohio into the State of Kansas, remained in the original unbroken packages and was adulterated in violation of the Food and Drugs Act of June 30, 1906, because it consisted in whole or in part of a filthy, putrid, or decomposed vegetable substance, and was therefore liable to seizure for confiscation.

On June 5, 1911, the case coming on for hearing and no one having appeared as claimant, the court found the product adulterated as alleged and entered a decree condemning and forfeiting it to the United States and ordering its destruction by the marshal.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 23, 1912.*